



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/645,673	08/24/2000	Ashok V. Joshi	001308	4245

22876 7590 06/19/2002

FACTOR & PARTNERS, LLC
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

EXAMINER

NGUYEN, DINH Q

ART UNIT	PAPER NUMBER
----------	--------------

3752

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/645,673

Applicant(s)

JOSHI ET AL.

Examiner

Dinh Q Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 18, 19, 21-25, 44-51, 53-60 and 62-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20, 26-43, 52 and 61 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show every features as described in the specification (e.g., means for increasing/decreasing barometric pressure, means fro increasing/decreasing temperature, a gas generating cell, a piezoelectric cell etc.). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 33-40 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. A bolus describing in page 14, lines 12-21, is not clearly disclosed in such a way to understand what is the invention related to .

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17, 20, 26-43, 52, 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following expressions lack antecedent basis:

Claim 1, lines 4 and 4, the expression "the immediate surroundings of the housing"; line 7, the expression "the flow of fluid".

Claims 2 and 5, line 2, the expression "the temperature".

Claims 3 and 4, line 2, the expression "the barometric pressure".

Claim 12, line 2, the expression "the volume".

Claim 20, line 5, the expressions "the cooperation" and "the outer surface".

Claim 30, line 2, the expression "the volatilization".

Claim 33, line 2, the expression "the quantity".

Claims 39 and 40, line 1, the expression "the volatilization".

Claim 43, line 1, the expression "the cabin".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 6, 7, 12, 14, 15, 17, 52, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Sancoff et al.

Sancoff discloses a device 5 for delivering a fluid 20 comprising:

Art Unit: 3752

a housing 45 having an interior 17 and an opening;

a quantity of fluid 20 within the interior 20 (figure 1);

means 15 for causing a pressure differential between the interior 20 and surroundings;

means 40 associated with the opening for controlling fluid flow.

8. Claims 1, 3, 6, 12, 17, 52, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen.

Cohen discloses a device for delivering a fluid 10 comprising:

a housing 12 having an interior and an opening 18;

a quantity of fluid 10 within the interior (figure 1);

means 22/24/32 for causing a pressure differential between the interior and surroundings;

means 34 associated with the opening for controlling fluid flow.

9. Claims 1, 3, 6, 16, 26-29, 52, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Magoon et al.

Magoon discloses a device 10 for delivering a fluid 22 comprising:

a housing 11 having an interior 12 and an opening 19;

a quantity of fluid 22 within the interior 12 (figure 4);

means 13/21/20 for causing a pressure differential between the interior and surroundings;

means 14 associated with the opening for controlling fluid flow;

a porous plug 14 (figure 3).

Art Unit: 3752

10. Claims 1, 6-10, 52, 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Maget.

Maget discloses a device for delivering a fluid comprising:

a housing 11 having an interior 15 and an opening 35;

a quantity of fluid within the interior 15 (figure 1);

means 29/13 for causing a pressure differential between the interior and surroundings;

means 39 associated with the opening for controlling fluid flow.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 13, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen/Magoon/Sancoff/Maget in view of Smith.

Cohen/Magoon/Sancoff/ Maget teaches all the limitations of the claims except for means for increasing temperature. However, Smith discloses means 18 for increasing temperature of a fluid 54 (figure 2). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Cohen/Magoon/Sancoff/ Maget with a means for increasing temperature as suggested by Smith. Doing so would provide a versatile dispenser.

Art Unit: 3752

13. Claims 3-5, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen/Magoon/Sancoff/ Maget.

Cohen/Magoon/Sancoff discloses a means for causing pressure differential by increasing internal pressure. Cohen/Magoon/Sancoff/ Maget does not disclose expressly a means for causing pressure differential by lowering temperature or by lowering barometric pressure. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the Cohen/Magoon/Sancoff/ Maget device with means for lowering temperature/lowering barometric pressure because Applicant has not disclosed that a means for causing pressure differential by lowering temperature/lowering barometric pressure, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either means because both means for increasing or lowering temperature perform the same function of delivering the fluid from the interior of the housing. Therefore, it would have been an obvious matter of design choice to modify Cohen/Magoon/Sancoff/ Maget to obtain the invention as specified in claims 3-5.

14. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen/Magoon/Sancoff/ Maget in view of Vehe et al.

Cohen/Magoon/Sancoff/ Maget teaches all the limitations of the claims except for a piezoelectric cell . However, Vehe discloses a piezoelectric cell 26/30 . Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Cohen/Magoon/Sancoff/ Maget with a piezoelectric cell as suggested by Vehe. Doing so would provide a versatile dispenser.

Art Unit: 3752

15. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen/Magoon/Sancoff/ Maget in view of Muderlak et al.

Cohen/Magoon/Sancoff/ Maget teaches all the limitations of the claims except for a fan for enhancing fluid volatilization . However, Muderlak discloses a fan 14 for enhancing fluid volatilization. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Cohen/Magoon/Sancoff/ Maget with a fan for enhancing fluid volatilization as suggested by Cohen/Magoon/Sancoff/ Maget. Doing so would provide a versatile dispenser.

16. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen/Magoon/Sancoff/ Maget in view of Hair.

Cohen/Magoon/Sancoff/ Maget teaches all the limitations of the claims except for attaching means for attaching to an animal . However, Hair discloses a dispensing device 36A with attaching means 38/48 (figure 11) for attaching to an animal (figure 3). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Cohen/Magoon/Sancoff/ Maget with attaching means for attaching to an animal as suggested by Hair. Doing so would provide a versatile dispenser.

Allowable Subject Matter

17. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

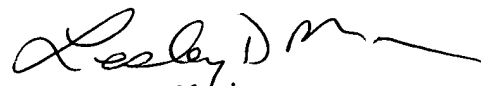
Art Unit: 3752

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to a fluid dispensing device: Hanover et al., Maruyama et al., Rossman et al., Gordon et al., and Joshi.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q Nguyen whose telephone number is (703) 305-0248. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 746-4591 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Lesley D. Morris
Primary Examiner
Art 3752

dqn
June 16, 2002